THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.20687 of 2005

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Between:

V.Sudhanshu Kumar, S/o.V.Tuljaram Singh,

Nimboli Adda, Kachiguda, Hyderabad.

… Petitioner.

AND

1. The Collector, Hyderabad District, Hyderabad.

And two others.

… Respondents.

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ORDER:

The petitioner claims to be the owner of agricultural land admeasuring Acs.1.07 gts. in Survey Nos.63 and 64 situated at Baglingampalli Village, Himayathnagar Mandal, Hyderabad District. The petitioner alleges that on 15.5.2005, the officials of the second respondent Board came to the site and started taking measurements. The petitioner was allegedly informed that the Government is constructing a sewerage line under the land. The petitioner apprehends that he would be deprived of his property without due process of law or without any proceedings under Land Acquisition Act, 1894. Therefore, he filed the present writ petition seeking a directing to the respondents not to take action except in accordance with law.

At the preliminary stage of hearing, the learned Standing Counsel for Municipal Corporation of Hyderabad and Hyderabad Metropolitan Water Supply and Sewerage Board brought to the notice of this Court that survey was conducted by the officials of the second respondent for the purpose of laying sewerage line in accordance with Section 293 of Hyderabad Municipal Corporation Act, 1955 (the Act, for short) and no action was initiated for damaging the petitioner's property. Section 293 of the Act reads as under:

> **293. Powers for making drain:-** (1) The Commissioner may carry any municipal drain through, across or under any street, or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the city or, for the purpose of outfall or distribution of sewage, without the city.

(2) The Commissioner may enter upon and construct any new drain in the place of an existing drain in any land where in any municipal drain has been already lawfully constructed or repaired or altered any municipal drain so constructed.

(3) In the exercise of any power under this section, as little, damage as can be shall be done, and compensation shall be paid by the Commissioner to any person who sustains damage by the exercise of such power.

In case of laying a drain through or across or under any street or under any private property, the Commissioner is required to issue a reasonable notice to the owner or occupier, under subsection (1) of Section 293 of the Act. As per subsection (3) of Section 293 of the Act, if, in the process of laying a sewage line or taking underground drainage canal, the owner sustains any damage, it has to be compensated by the Commissioner. Now that the work is still at the stage of survey, the writ petition is disposed of observing that the Commissioner of Municipal Corporation of Hyderabad shall have to issue notice under Section 293(1) of the act to the petitioner, in the event it is proposed to lay a drainage canal through the property of the petitioner.

The writ petition, with the above observations and directions, is disposed of. No costs.

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September 23, 2005 (**V.V.S.RAO,J**)

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